

Information Release ST 2017-01 Sales and Use Tax: Changes to the Definition of Motor Vehicle and Its Implications on the Ohio Sales and Use Tax Statutes – January, 2017

The purpose of this information release is to explain a change to the definition of motor vehicle that is effective January 1, 2017. A few types of vehicles will now have separate definitions and are specifically excluded from the definition of "motor vehicle". The underlining presented within the statutes below shows what language was added into the existing statute. The strikethrough presented within the statutes below shows what language was removed from the statute.

Understanding the Change in Definitions

R.C. 4501.01 reads in pertinent part:

(B) "Motor vehicle" means any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. "Motor vehicle" does not include utility vehicles as defined in division (VV) of this section, under-speed vehicles as defined in division (XX) of this section, mini-trucks as defined in division (BBB) of this section, motorized bicycles, road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work and not designed for or employed in general highway transportation, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers that are designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(VV) "Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities. ~~"Utility vehicle" includes a vehicle with a maximum attainable speed of twenty miles per hour or less that is used exclusively within the boundaries of state parks by state park employees or volunteers for the operation or maintenance of state park facilities.~~

(WW) "Low-speed vehicle" means a three- or four-wheeled motor vehicle with an attainable speed in one mile on a paved level surface of more than twenty miles per hour but not more than twenty-five miles per hour and with a gross vehicle weight rating less than three thousand pounds.

(XX) "Under-speed vehicle" means a three- or four-wheeled vehicle, including a vehicle commonly known as a golf cart, with an attainable speed on a paved level surface of not more than twenty miles per hour and with a gross vehicle weight rating less than three thousand pounds.

(YY) "Motor-driven cycle or motor scooter" means any vehicle designed to travel on not more than three wheels in contact with the ground, with a seat for the driver and floor pad for the

driver's feet, and is equipped with a motor with a piston displacement between fifty and one hundred fifty cubic centimeters piston displacement that produces not more than five brake horsepower and is capable of propelling the vehicle at a speed greater than twenty miles per hour on a level surface.

(BBB) "Mini-truck" means a vehicle that has four wheels, is propelled by an electric motor with a rated power of seven thousand five hundred watts or less or an internal combustion engine with a piston displacement capacity of six hundred sixty cubic centimeters or less, has a total dry weight of nine hundred to two thousand two hundred pounds, contains an enclosed cabin and a seat for the vehicle operator, resembles a pickup truck or van with a cargo area or bed located at the rear of the vehicle, and was not originally manufactured to meet federal motor vehicle safety standards.

Previously, those items defined as “under-speed vehicles” and “mini-trucks” would have met the definition of a “motor vehicle”. Under the new definition, the under-speed vehicles and mini-trucks are specifically excluded from the definition of “motor vehicle”. Ohio sales and use tax statutes refer to the definition of “motor vehicle” found in R.C. 4501.01 in two instances that will be discussed further below.

R.C. 4519.01 reads in pertinent part:

(A) "Snowmobile" means any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners, or caterpillar treads.

(B) "All-purpose vehicle" means any self-propelled vehicle designed primarily for cross-country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all-season vehicles, mini-bikes, and trail bikes. "All-purpose vehicle" does not include a utility vehicle as defined in section 4501.01 of the Revised Code or any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Chapter 4503. or 4561. of the Revised Code, and any vehicle excepted from definition as a motor vehicle by division (B) of section 4501.01 of the Revised Code.

(L) "Mini-truck" means a vehicle that has four wheels, is propelled by an electric motor with a rated power of seven thousand five hundred watts or less or an internal combustion engine with a piston displacement capacity of six hundred sixty cubic centimeters or less, has a total dry weight of nine hundred to two thousand two hundred pounds, contains an enclosed cabin and a seat for the vehicle operator, resembles a pickup truck or van with a cargo area or bed located at the rear of the vehicle, and was not originally manufactured to meet federal motor vehicle safety standards.

On its surface, the definition of “all-purpose vehicle” did not change. However, the definition of “utility vehicle” found in R.C. 4501.01 did change. Because Ohio sales and use tax statutes refer to the definition of “all-purpose vehicle” found in R.C. 4519.01, the impact of this change will be discussed below.

Casual Sale

“Casual sale” is a sale of tangible personal property by a person not engaged in the business of selling such tangible personal property. While most casual sales are exempt from sales tax under R.C. 5739.02(B)(8) if tax has been previously paid on a transaction, that provision specifically excludes the transfer of a **motor vehicle**, watercraft or outboard motor required to be titled under R.C. 1548.06, watercraft documented with the United States Coast Guard, snowmobile, and **all-purpose vehicle** as defined in R.C. 4519.01 from the definition of casual sale. As a result, a motor vehicle, watercraft or titled outboard motor, documented watercraft, snowmobile, or all-purpose vehicle purchased in a casual sale is subject to sales or use tax, and the tax must be paid to the clerk of courts at the time of title transfer. If tax is neither collected by a vendor nor, paid by the consumer to the clerk of courts (because the motor vehicle, watercraft or titled outboard motor, documented watercraft, snowmobile, and all-purpose vehicle is not titled), pursuant to O.A.C. 5703-9-13, the consumer must separately report and remit tax on that purchase using a voluntary payment return form for the calendar quarter in which the purchase was made.

Under the correct facts, the changes to the definition of “motor vehicle” discussed above would, by statute, exempt sales of under-speed vehicles and mini-trucks as a casual sale.

- For example, an individual sells their titled or registered golf cart to their neighbor for \$1,500. The new owner goes to the clerk of courts to title the golf cart in their name.

Old Application

- The new owner would pay the applicable tax when they title the golf cart (motor vehicle) with the clerk of courts.

New Application

- The sale of an under-speed vehicle is not a sale of a motor vehicle and therefore meets the definition of a casual sale.

The change to the definition of “utility vehicle”¹ which would influence the definition of “all-purpose vehicle” is of an insignificant consequence. The language that was removed from the definition of “utility vehicle” found in R.C. 4501.01 is likely clarifying language and relates to vehicles that are included within the definition that are operated exclusively within the boundaries of state parks by state park employees or volunteers for the operation or maintenance of state park facilities. It is likely that such vehicles would have been exempt as sales to the state.

Trade-In on a Motor Vehicle

“Price”, defined in R.C. 5739.01(H), generally includes all consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, etc., without any deduction for cost, delivery charges, installation charges, or trade-ins. However, pursuant to R.C. 5739.01(H)(2), in the case of a sale of any new motor vehicle by a new motor vehicle dealer, in which another motor vehicle is accepted by the

¹ Those “utility vehicles” that have been titled as an “all purpose vehicle” pursuant to the guidance from the Clerk of Courts Office are deemed to be “all purpose vehicles” and not “utility vehicles”.

dealer as part of the consideration received, "price" is reduced by the credit afforded to the consumer by the dealer for the motor vehicle received in trade. Therefore, as discussed above, the change in the definition of "motor vehicle" results in the trade in of under-speed vehicles or mini-trucks to no longer qualify to reduce the price of a new motor vehicle sold by a new motor vehicle dealer.

- For example, an individual trades-in a used mini-truck on the purchase of a new motor vehicle from a new motor vehicle dealer. The credit the new motor vehicle is offering for the trade-in of the mini-truck is \$2,000. The new motor vehicle is being sold to the individual for \$15,000.

Old Application

- The credit for the trade-in of the mini-truck (\$2,000) would reduce the taxable base of the new motor vehicle being sold. The taxable price for the new motor vehicle is \$13,000.

New Application

- The trade-in of the mini-truck is not a trade in of a motor vehicle and therefore does not reduce the taxable base of the new motor vehicle being sold. The taxable price for the new motor vehicle is \$15,000.

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